

June 22, 2010

A regular meeting of the Council of the City of Bedford, Virginia, was held in the Council Hall of the Municipal Building at 7:00 p.m., June 22, 2010.

Members present: Mayor W. D. Tharp; Councilwoman Mary L. Flood; Councilman Jeffrey B. Hubbard; Councilman Steve C. Rush; Councilman C. G. Stanley, Jr.; Councilman James A. Vest; and Vice Mayor Robert T. Wandrei

Members absent: None

Staff present: City Manager Charles P. Kolakowski; City Attorney W. W. Berry, IV; and Clerk of the Council Teresa W. Hatcher

Mayor Tharp opened the meeting and led all present in saying the Pledge of Allegiance to the Flag.

Mayor Tharp declared that the minutes of a regular Council meeting held on June 8, 2010, were approved as distributed.

City Manager Kolakowski reported on the following:

- requested that a closed session be held at the conclusion of the regular meeting for consultation with legal counsel
- the paving program is continuing and should be completed in approximately two weeks
- there will be a planned electrical outage next week, which will affect a number of streets in the City – the outage is scheduled for midnight to minimize disruption to traffic and business operations – every effort will be made to contact those affected – the purpose of the work is to strengthen the electric system

Vice Mayor Wandrei reported that he attended the 2<sup>nd</sup> Friday event in the downtown area and was amazed at the number of businesses that were there, the number of people and traffic. The Mayor indicated that he attended and it was a good event.

Mayor Tharp stated he spoke with a representative of Senator Warner who indicated there was an opening for a senate page for someone from Bedford County. The Mayor met with the Superintendent of Schools, and a student was selected from the Liberty High School attendance zone.

Councilman Vest, Chairman of the Finance Committee, stated the Committee met earlier in the evening and recommended that the City continue to pay the member contributions of current and new employees to the Virginia Retirement System as is currently being paid.

Mayor Tharp opened the public hearing regarding consideration of a Conditional Use Permit for a bed and breakfast at 612 Longwood Avenue at 7:10 p.m.

The Notice of Public Hearing follows:

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## **PUBLIC HEARING NOTICE**

Notice is hereby given of a public hearing to be held by the City Planning Commission at 5:30 p.m. on Thursday, June 3, 2010 and by the City Council at 7:00 p.m. on Tuesday, June 22, 2010, at the City Municipal Building, Council Hall, 215 East Main Street for the purpose of:

➤ To consider a conditional use request to allow a Bed & Breakfast establishment in a Low Density Residential District (R1A), Tax Map #194-A-152. The request is being made by Suzanne F. Caruso, 612 Longwood Avenue, Bedford, VA 24523.

Information regarding this request is on file in the office of Planning & Community Development.

Anyone who is in favor of or opposed to this request will have an opportunity to express his/her view at this hearing.

By the Authority of the Planning Commission and City Council of the City of Bedford

Suzanne Caruso, owner of the property at 612 Longwood Avenue, explained her plans for the bed and breakfast, including room occupancy and parking. Ms. Caruso stated she feels the bed and breakfast would add to the character of the community in a positive way and asked for Council's approval of the conditional use request.

Lynn Scott, 608 Longwood Avenue, stated she had no problem with the property becoming a bed and breakfast and the neighbors she has spoken to are all in favor of the project.

As there were no further comments, the Mayor closed the public hearing at 7:12 p.m.

Bart Warner, Assistant City Manager, stated that Ms. Caruso has applied for a conditional use permit. He stated a copy of her application with attached exhibits and a cover letter was included in the City Council packet for review. The Planning Commission met on June 3, 2010 and unanimously recommended approval of the conditional use permit. Mr. Warner said that the staff recommends adoption of the proposed ordinance approving the conditional use.

City Attorney Berry stated the ordinance embodies all the requirements of the Land Development Regulations and summarizes and takes into account Ms. Caruso's specific request.

On motion by Councilman Stanley, seconded by Vice Mayor Wandrei, voted upon and carried unanimously by a roll call vote, Council adopted the Ordinance approving the issuance of a conditional use permit for operation of a bed and breakfast establishment at 612 Longwood Avenue. Roll call vote follows:

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Councilwoman Flood	aye
Councilman Hubbard	aye
Councilman Rush	aye
Councilman Stanley	aye
Councilman Vest	aye
Vice Mayor Wandrei	aye
Mayor Tharp	aye

The ordinance follows as adopted:

**Ordinance No. 10-7**

**AN ORDINANCE APPROVING THE ISSUANCE  
OF A CONDITIONAL USE PERMIT FOR  
OPERATION OF A BED AND BREAKFAST ESTABLISHMENT  
AT 612 LONGWOOD AVENUE**

**WHEREAS**, the Planning Commission of the City of Bedford held a public hearing on May 6, 2010 upon the application by Suzanne Caruso for a conditional use permit to operate a Bed and Breakfast at 612 Longwood Avenue and recommended approval; and

**WHEREAS**, the City Council has held a public hearing after notice was given in the Bedford Bulletin once a week for two successive weeks as required by Virginia Code 15.1-2204; and

**WHEREAS**, the City Council finds that the proposed use is consistent with the intent of the Land Development Regulations and the Comprehensive Plan and is in the public interest and that a conditional use permit should be approved subject to conditions set forth herein;

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF BEDFORD**, as follows:

Section 1. The Council approves issuance of a conditional use permit to allow a bed and breakfast establishment to be operated at 612 Longwood Avenue (Tax Parcel 294-A-152) subject to the following conditions:

1. A maximum of 4 guest sleeping rooms shall be allowed; only 4 individual guests shall be staying at the bed and breakfast at one time; and no guest shall stay in the bed and breakfast for more than 7 consecutive days.

2. The owner or owner's family shall reside on the same parcel occupied by the bed and breakfast establishment.

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3. Alterations undertaken on structures shall be limited to those which will not alter the exterior appearance of the structure from that of a single family residence or normal residential accessory structure. No room shall have direct entrance or entrance to the outside of the building, except that emergency exits when required by the fire marshal may be provided for emergency purposes only.

4. The operator of the bed and breakfast shall maintain a log of all guests, including their name, address, license plate number, length of stay, and the operator shall make the log available to the City zoning official upon request.

5. Meals should be provided only to registered guests and no cooking shall be permitted in guest rooms.

6. No receptions, private parties or similar activities shall be permitted.

7. One externally lighted sign for the bed and breakfast shall be permitted on the premises, with a size of 2 feet by 3 feet, on which may be placed the name of the bed and breakfast, the address, and such other information as is not prohibited by the Land Development regulations. A separate sign permit shall be required prior to installation of a sign for the bed and breakfast.

8. Off-street parking shall be provided in the rear of the dwelling house for no less than 4 passenger vehicles to be used by guests and employees.

Section 2. The approval of the application for a zoning permit shall be effective immediately upon enactment of this Ordinance, and upon compliance with all other applicable laws and regulations. The zoning administrator shall issue a zoning permit and sign permit in accordance with the provisions of Section 1002 of the City Land Development Regulations.

The City Manager reported that on May 24, 2010, the Bedford Community Health Foundation awarded a grant in the amount of \$2,298 to Bedford Emergency Management. The money will be used to replace two older Zoll brand automated external defibrillators. The money will be placed into revenue account number 100033 424400 and expenditure account number 10033110 582100.

On motion by Councilman Vest, seconded by Councilman Hubbard, voted upon and carried unanimously by a roll call vote, Council appropriated the \$2,298 grant funds to revenue account number 100033 424400 and expenditure account number 10033110 582100. Roll call vote follows:

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Councilman Hubbard	aye
Councilman Rush	aye
Councilman Stanley	aye
Councilman Vest	aye
Vice Mayor Wandrei	aye
Councilwoman Flood	aye
Mayor Tharp	aye

City Manager Kolakowski said the City of Bedford has recently been required to provide services for a primary election for a political party at an expense exceeding \$3,000.00. Political parties are private organizations and are not required to conduct primary elections. The City Manager reported a resolution has been prepared stating that the Commonwealth of Virginia should reimburse localities for these primary election expenses or shall require the political parties to pay for the expense.

Councilman Vest moved that Council adopt the resolution regarding payment for expenses for political party primaries. The motion was seconded by Councilman Hubbard.

Councilman Vest reported that in the last Republican primary only 218 citizens voted out of 3,811 registered voters at a cost to the City in excess of \$3,000.

Vice Mayor Wandrei stated he had no problem with the purpose of the resolution but he felt this was an exercise in futility due to the State cuts.

The motion was then voted upon and carried unanimously by the following roll call vote:

Councilman Rush	aye
Councilman Stanley	aye
Councilman Vest	aye
Vice Mayor Wandrei	aye
Councilwoman Flood	aye
Councilman Hubbard	aye
Mayor Tharp	aye

The resolution follows as adopted:

### **Resolution**

#### **Payment for Expenses for Political Party Primaries**

**WHEREAS**, the City of Bedford as well as many other jurisdictions in the Commonwealth of Virginia, recently were required to provide at public expense services for a primary election for a political party; and

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**WHEREAS**, political parties are private organizations and are not required to conduct primary elections and such expense for localities constitutes an unfunded mandate for the benefit of a private group of citizens;

**NOW, THEREFORE, BE IT RESOLVED**, by the City Council of the City of Bedford, Virginia, as follows:

1. The City Council requests the General Assembly to enact legislation requiring that the costs of primary elections be paid by the applicable political parties or by the Commonwealth of Virginia.
2. The City Manager is directed to forward a copy of this Resolution to The Honorable Robert McDonnell, Governor of the Commonwealth of Virginia, The Honorable Lacey E. Putney, Virginia House of Delegates, The Honorable Stephen D. Newman, Senate of Virginia, the Virginia Municipal League, the Virginia Association of Counties, and to other City Managers and County Administrators.

City Manager Kolakowski stated the Commonwealth of Virginia is subject to certain requirements of the Voting Rights Act of 1965 to provide assurance of equal access to the right to vote. The City of Bedford as a political subdivision of the Commonwealth is subject to the same provisions. Under the Voting Rights Act the City is required to obtain approval of the Justice Department before any action by Council can be taken that would affect voting rights. Mr. Kolakowski said that in the past the City has been required to file extensive administrative requests for approval of matters such as change of precincts and change of voting machines and polling places. The City Manager said that although the Justice Department has found no problems in the City of Bedford and has approved all such changes that are required to be reviewed under the Voting Rights Act, the administrative proceedings are quite time consuming for the Registrar and the City Attorney both in terms of costs and administrative time involved in preparing and following through on the various actions required.

The City Manager reported that the Voting Rights Act now provides specific provisions for jurisdictions to seek exemption from various provisions of the Act which would avoid many of the administrative expenses that have occurred in the past. The City Attorney advises that the Board of Supervisors, at its meeting on May 24, authorized the County Attorney to contract with J. Gerald Hebert, an attorney in Alexandria who has represented many municipalities in such actions, to proceed on behalf of the County Board of Supervisors. The City Attorney has discussed the matter with the County Attorney and understands that Mr. Hebert is willing to represent the City in a similar capacity as part of his agreement with the County Attorney's office. City Manager Kolakowski stated the City Attorney recommends that the Council adopt a resolution authorizing such actions.

The City Manager stated that Council was requested to approve the Resolution authorizing the retention of outside counsel and directing the institution of proceedings for exemption from the Voting Rights Act of 1965.

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On motion by Councilman Stanley, seconded by Councilman Vest, voted upon and carried by a roll call vote, Council adopted the resolution regarding exemption from the Voting Rights Acts. Roll call vote follows:

Councilman Stanley	aye
Councilman Vest	aye
Vice Mayor Wandrei	aye
Councilwoman Flood	aye
Councilman Hubbard	aye
Councilman Rush	aye
Mayor Tharp	aye

The resolution follows as adopted:

**RESOLUTION DIRECTING THE CITY ATTORNEY  
TO FILE PROCEEDINGS SEEKING AN EXEMPTION  
OF THE CITY OF BEDFORD FROM THE  
VOTING RIGHTS ACT OF 1965 AND  
AUTHORIZING THE RETAINING OF OUTSIDE COUNSEL  
TO REPRESENT THE CITY**

**WHEREAS**, the United State Congress enacted the Voting Rights Act of 1965 to provide assurance of equitable access to the right to vote; and

**WHEREAS**, the Commonwealth of Virginia is subject to the provisions of the Voting Rights Act and such provisions apply to the City of Bedford as a political subdivision of the Commonwealth; and

**WHEREAS**, the City has been required to obtain approval from the Justice Department for changes in polling places and precincts on a number of occasions and the expense and time consumed has become administratively burdensome; and

**WHEREAS**, Section 4 (a) of the Voting Rights Act provides that a political subdivision of a state subject to the Act may be exempted from the provisions of the Act if it can demonstrate in an action for declaratory judgment that it has previously been in compliance with the Act and it meets certain criteria set forth in the Act; and

**WHEREAS**, the City Attorney recommends that the City Council authorize him to cause necessary proceedings to be commenced on behalf of the City to obtain an exemption and that he be authorized to engage the services of J. Gerald Hebert, an attorney in Alexandria, Virginia who has represented many other localities in such proceedings.

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**NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF BEDFORD AS FOLLOWS:**

That the City Council hereby authorizes and directs the City Attorney to institute proceedings as are necessary under the provisions of the Voting Rights Act of 1965 to exempt the City of Bedford and its agencies and departments, including its school board from the applicable provisions of the said Voting Rights Act and to employ or associate the legal offices of J. Gerald Hebert, P. C. of Alexandria for that purpose

City Manager Kolakowski stated the Finance Committee recommends that Council approve the resolution which authorizes the City to pick-up the employees contribution to VRS under § 414(h) of the Internal Revenue Code for Plan 2 employees.

On motion by Councilman Rush, seconded by Councilman Hubbard, voted upon and carried by a roll call vote, Council adopted the resolution. Roll call vote follows:

Councilman Vest	aye
Vice Mayor Wandrei	aye
Councilwoman Flood	aye
Councilman Hubbard	aye
Councilman Rush	aye
Councilman Stanley	aye
Mayor Tharp	aye

The resolution follows as adopted:

**RESOLUTION**

**Authorization to Pick-up the Employee's  
Contribution to VRS Under § 414(h) of the  
Internal Revenue Code For Plan 2 Employees**

**WHEREAS**, the Virginia General Assembly, in its 2010 session passed legislation creating a separate retirement plan for employees hired on or after July 1, 2010 (hereafter referred to as "Plan 2 Employees"). The legislation stipulates that Plan 2 Employees will pay their 5 percent member contribution and that, absent other action by the employer, such contribution will be paid through salary reduction according to Internal Revenue Code § 414 (h) on a pre-tax basis; and

**WHEREAS**, the legislation allows certain employers, including the City of Bedford, to pick-up and pay all or a portion of the member



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contributions on behalf of its Plan 2 Employees as an additional benefit not paid as salary; and

**WHEREAS**, the election to pick-up and pay all or a portion of the member contributions on behalf of its Plan 2 Employees as an additional benefit not paid as salary shall, once made, remain in effect for the applicable fiscal year (July 1 - June 30) and shall continue in effect beyond the end of such fiscal year absent a subsequent resolution changing the way the 5 percent member contribution is paid; and

**WHEREAS**, employee contributions that are picked-up as an additional benefit not paid as salary are not considered wages for purposes of VA Code § 51.1-700 et seq. nor shall they be considered salary for purposes of VA Code § 51.1-100 et seq.; and

**WHEREAS**, the City of Bedford desires to pick-up and pay its Plan 2 Employees' member contributions to VRS as an additional benefit not paid as salary in an amount equal to (5%) of creditable compensation; and

**WHEREAS**, VRS tracks such picked-up member contributions and is prepared to treat such contributions as employee contributions for all purposes of VRS.

**NOW, THEREFORE, IT IS HEREBY RESOLVED** that effective the first day of July, the City of Bedford shall pick-up member contributions of its Plan 2 Employees to VRS as an additional benefit not paid as salary in an amount equal to (5%) of creditable compensation subject to the terms and conditions described above; and it is further

**RESOLVED** that such contributions, although designated as member contributions, are to be made by the City of Bedford in lieu of member contributions; and it is further

**RESOLVED** that nothing herein shall be construed so as to permit or extend an option to VRS members to receive the picked-up contributions made by the City of Bedford directly instead of having them paid to VRS.

Councilman Hubbard moved that Council adjourn into closed session pursuant to Section 2.2-3711(a)(7) of the Code of Virginia of 1950, as amended for consultation with legal counsel. Councilman Rush seconded the motion. The motion was voted upon and carried by the following roll call vote:

Vice Mayor Wandrei	aye
Councilwoman Flood	aye

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Councilman Hubbard	aye
Councilman Rush	aye
Councilman Stanley	aye
Councilman Vest	aye
Mayor Tharp	aye

Council adjourned into closed session at 7:25 p.m. The following non-council members attended: City Manager Kolakowski, City Attorney Berry, and Assistant City Manager Warner.

Council reconvened into open session at 7:34 p.m.

The Clerk of Council read aloud the following resolution:

**BE IT RESOLVED** that the Council of the City of Bedford hereby certifies that (1) only public business matters lawfully exempted from open meeting requirements by Virginia law were discussed in the closed meeting to which this certification resolution applies, and (2) only such public business matters as were identified in the motion convening the closed meeting were heard, discussed or considered by the Council.

On motion by Vice Mayor Wandrei, seconded by Councilwoman Flood, voted upon and carried by a roll call vote, Council adopted the resolution. Roll call vote follows:

Councilwoman Flood	aye
Councilman Hubbard	aye
Councilman Rush	aye
Councilman Stanley	aye
Councilman Vest	aye
Vice Mayor Wandrei	aye
Mayor Tharp	aye

Mayor Tharp adjourned the meeting at 7:35 p.m.